

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CLIFFORD AIMSBACK,

Defendant.

CR 16-33-GF-BMM

AMENDED ORDER

This case was referred to United States Magistrate Judge John Johnston for a revocation hearing and findings and recommendations. Judge Johnston entered his findings and recommendations on August 9, 2017. Defendant admitted that he had violated the conditions of his supervised release: 1) by testing positive for opiates and marijuana; 2) by interacting with a convicted felon; 3) by failing to follow the instructions of his probation officer; and 4) by consuming alcohol. Judge Johnston found the admissions sufficient to establish the supervised release violations.

Judge Johnston recommended that this Court revoke Defendant's supervised release and sentence him to a term of custody of time served, followed by 90 days of supervised release. Judge Johnston further recommended that the Defendant be subject to home confinement during the period of supervised release. Neither party filed objections to Judge Johnston's findings and recommendations. Judge Johnston's findings and recommendations are therefore reviewed for clear error.

McDonnell Douglas Corp. Commodore Bus. Mach, Inc., 656 F.2d 1309, 1319 (9th Cir. 1981).

This Court agrees with Judge Johnston's findings. Defendant admitted that he had violated the conditions of his supervised release. Defendant could be incarcerated for up to 24 months, followed by 11 months of supervised release less any custody time imposed. The United States Sentencing Guidelines call for a term of imprisonment of three to nine months. A sentence of time served, followed by 90 days of supervised release is appropriate. The sentence is sufficient but not greater than necessary.

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 148) are ADOPTED in full and Judgment shall be entered accordingly.

DATED this 29th day of August, 2017.



Brian Morris
United States District Court Judge